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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058292
Party	Plaintiff (The) Blues Foundation, Inc.
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Submission	Motion to Consolidate
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Date	12/04/2013
Attachments	Motion for Consolidation.pdf(44215 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In re: Registration No. 2392429 (BLUES HALL OF FAME)  
Registered October 3, 2000

&

Registration No. 4398094 (CHICAGO BLUES HALL OF FAME)  
Registered September 3, 2013

(The) Blues Foundation, Inc.

Petitioner,

v.

Cancellation Nos. 92057288 &  
92058292

Dan Marolt,

Registrant.

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JOINT MOTION FOR CONSOLIDATION OF PETITIONS FOR CANCELLATION NO.  
92057288 (BLUES HALL OF FAME) NO. 9205892 (CHICAGO BLUES HALL OF FAME),  
AND MEMORANDUM IN SUPPORT

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**MOTION**

(The) Blues Foundation, Inc. (“Petitioner”), a Tennessee Non-Profit Corporation with a principal place of business at 421 S. Main Street, Memphis, TN 38103, and Daniel S. Marolt, 2643 Montclair Street, San Diego, California (“Registrant”) hereby petition the Honorable Trademark Trial and Appeal Board, pursuant to TMBP § 511 (2013), to consolidate Petitioner’s Petition for Cancellation No. 92057288 and Petitioner’s Petition for Cancellation No. 92058292. Consolidation is appropriate because the petitions concern common question of fact and because the Board and the parties will gain savings in time, effort, and expense by consolidation without prejudicing or inconveniencing either party or the Board.

### **Memorandum in Support**

On June 4, 2013, Petitioner filed a Petition for Cancellation of Registration No. 2392429, “Blues Hall of Fame,” registered to Registrant. In the Petition, Petitioner alleged that, “[s]ince 1980, Petitioner has maintained a Blues Hall of Fame that has become recognized as the pre-eminent Blues Hall of Fame for recognizing outstanding Blues musicians.” Petitioner attached to its petition exhibits to demonstrate its use of “Blues Hall of Fame” since 1980.

On November 18, 2013, Petitioner filed a Petition for Cancellation of Registration No. 4398094, “Chicago Blues Hall of Fame,” registered to Registrant. Petitioner’s basis for cancellation of Registration No. 4398094 incorporates the same facts alleged in its June 4, 2013 petition. Both Petitions for Cancellation involve the same parties, both petitions involve use of the mark “Blues Hall of Fame,” and both parties agree that the factual overlap of the two petitions will be substantial. Accordingly, consolidation is appropriate because of common questions of fact and the common parties. TMBP § 511.

Furthermore, the bulk of discovery in the Petition for Cancellation of Registration No. 2392429 has not yet been conducted. Expert Disclosures are not due until January 11, 2014, and discovery is not set to close until February 10, 2014. If consolidation is granted, the parties would jointly request that the Board adopt the dates from the scheduling order set in the November 18, 2013 petition. The scheduling order was mailed November 27, 2013. Based on the procedural posture of these petitions, consolidation is appropriate because the savings in time, effort, and expense that may be gained from consolidation substantially outweighs any prejudice or inconvenience that may be caused by consolidation. TMBP § 511.

The parties therefore jointly request that the Honorable Board consolidation Petition for Cancellation of Registration No. 239429 and Petitioner's Petition for Cancellation of Registration No. 4398094.

Respectfully submitted,

Date: December 4, 2013

/Adam J. Eckstein/  
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*Attorney for (The) Blues Foundation*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Petition for Cancellation has been served on T.C. Johnston, attorney for Daniel S. Marolt, by sending said copy via electronic mail, per agreement, on December 4, 2013 to:

T.C. Johnston, LL.M.  
3245 University Ave., Suite 1245  
San Diego, California 92104  
T: 619.446-6750  
Email: info@tcjohnston.com

/Adam J. Eckstein/  
Adam J. Eckstein

**CERTIFICATE OF FILING**

I hereby certify that this correspondence is being filed with the Trademark Trial and Appeals Board by electronic filing on December 4, 2013.

/Adam J. Eckstein

Adam J. Eckstein